



March 30, 2022

Ms. Tammy Weis  
Board of Certified Professional Midwives  
Department of Health  
27705 460<sup>th</sup> Avenue  
Chancellor, SD 57015

Dear Ms. Weis:

The Legislative Research Council received proposed rules from the Board of Certified Professional Midwives on March 17, 2022. In accordance with SDCL 1-26-6.5, the Council reviewed the proposed rules for form, style, clarity, and legality, and now returns them with recommended corrections.

Please find attached:

- Proposed Rules Review Checklist;
- The proposed rules with recommended form, style, and clarity corrections;
- Directions for Submitting the Final Draft of the Rules; and
- The Interim Rules Review Committee Rules Presentation Format.

In addition to the recommended corrections to form, style, and clarity included in the proposed rules, the Council identifies the following issues regarding legality:

- The proposed rule change for § 20:86:02:03 appears to conflict with the biennial renewal date of October 31 in § 20:86:04:02, which is not addressed in this rules packet. The two rules should be reconciled.
- The catchline, "issuance of license," and the Law Implemented citation for § 20:86:02:03, which addresses initial licensure application requirements, are not consistent with the substance of the rule, which only addresses the timeline of license renewal. Recommendations are proposed to provide clarification to the intent that a license is valid for two years from the date initially issued by the board and must be renewed thereafter. The Council recommends SDCL 36-9C-15 as an appropriate Law Implemented citation.
- Chapter 20:86:03 Appendix A adds epinephrine HCL to the list of drugs and medications a certified professional midwife may administer. The appendix is derived from § 20:86:03:11, which cites SDCL subdivision 36-9C-32(2) as General Authority providing rulemaking authority related to the "practice and scope, pursuant to § 36-9C-13, of certified professional midwives..." and SDCL subdivision 36-9C-13(7) as the Law Implemented. The Law Implemented section provides "[l]imited prescriptive authority to administer:
  - (a) Vitamin K to the baby either orally or through intramuscular injection;
  - (b) Postpartum antihemorrhagic medication in an emergency situation;
  - (c) Local anesthetic for repair of a first or second degree perineal laceration;
  - (d) IV antibiotics for treatment of Group B strep during labor;
  - (e) Oxygen;
  - (f) Eye prophylaxis;
  - (g) RhoGam;"

Epinephrine does not appear to fall under any of the authorized categories of that subdivision as the indication for the drug is "[p]ost-exposure treatment of severe allergic reaction to approved medication." Thus, the board should add an appropriate Law Implemented in § 20:86:03:11 or remove epinephrine from the appendix.

Under SDCL 1-26-4(4), the Board is required to adopt the recommended corrections, subject to an appeal to the Interim Rules Review Committee for the Committee's final determination.

Please do not hesitate to contact me if you have any questions or if you would like to discuss any of the recommendations.

Sincerely,



John R. McCullough  
Code Counsel

Enclosures

CC: Joan Adam, Secretary, Department of Health

**20:86:02:03. Issuance of license.** Licenses will be renewed biennially ~~on~~ October 30<sup>th</sup> from the date that it was issued.

**Source:** 45 SDR 31, effective September 10, 2018.

**General Authority:** SDCL 36-9C-32(1).

**Law Implemented:** SDCL 36-9C-11.

**Comment [AM1]:** Legality: This proposed rule change seems to conflict with the biennial renewal date of October 31 in § 20:86:04 02. I would recommend striking the first sentence of that rule.

**Comment [AM2]:** Clarity: This rule doesn't seem to be entirely accurate with the catchline. It appears the rule is only about license renewal. Would "Duration of license" be better?

**Comment [AM3]:** Clarity: It seems unclear if the licensee "will be" renewing the license or the board "will be" renewing the license on that date. If the intent of this rule is to describe that a license must be renewed because it is valid for two years starting from the date of issuance, I would suggest: "A license is valid for two years from the date that it was issued by the board."

**Comment [AM4]:** Style and form: This appears to be a typo. However, please see other recommendations.

**Comment [AM5]:** Style and form: There is disagreement between plural and singular form for "licenses" and "it" in this sentence. However, please see other recommendations.

**Comment [AM6]:** Legality: Again, this citation appears to be consistent with the catchline, but not the substance of the rule. If the intent of the rule is to describe the timeline for license renewal, SDCL 36-9C-15 would be the appropriate citation.

DEPARTMENT OF HEALTH  
CERTIFIED PROFESSIONAL MIDWIVES

DRUG FORMULARY

Chapter 20:86:03

APPENDIX A

SEE: [§20:86:03:11](#)

**Comment [AM7]:** Style and form Section symbol should be added here. ARSD Drafting Manual, pg. 36.

**Source:** 45 SDR 31, effective September 10, 2018.

Drug	Indication	Dose	Route of Administration	Duration of Treatment
Phylloquinone (Vitamin K <sub>1</sub> )	Prophylaxis for Vitamin K deficiency bleeding	1 mg	Intramuscularly	1 dose
Oxytocin (Pitocin)	Postpartum hemorrhage only	10 <del>Units</del> units/ml	Intramuscularly only	1-2 doses.  Transport to hospital required if more than <del>two</del> (2) doses are administered.
Misoprostol  Note: This is an appropriate off label use of this drug.	Postpartum hemorrhage only	200 microgram tabs, at 800 micrograms per dose (4 tabs)	Rectal or sublingual, or may be used as ½ rectally and ½ sublingually	1-2 doses.  Transport to hospital required if more than 2 doses are administered.  Not to exceed 800 micrograms.
Methylergonovine (Methergine)	Postpartum hemorrhage only	0.2 mg	Intramuscular or orally	Single dose.  Every six hours, may repeat

**Comment [AM8]:** Style and form Not capitalized.

**Comment [AM9]:** Style and form Insert space

				3 times. Contraindicated in hypertension and Raynaud's Disease.
Lidocaine HCL 1% or 2%	Local anesthetic for use during postpartum repair of lacerations or episiotomy	Maximum 50 ml (1%)  Maximum 15 ml (2%)	Percutaneous infiltration only	Completion of repair
Penicillin G (Recommended)	Group B Strep Prophylaxis	5 million units initial dose, then 2.5 million units every 4 hours until birth	IV in $\geq 100$ ml LR, NS or D <sub>5</sub> LR	Until birth of baby
Ampicillin Sodium (Alternative)	Group B Strep Prophylaxis	2 grams initial dose, then 1 gram every 4 hours until birth	IV in $\geq 100$ ml NS	Until birth of baby
Cefazolin Sodium	Group B Strep Prophylaxis	2 grams initial dose, then 1 gram every 8 hours	IV in $\geq 100$ ml LR, NS or D <sub>5</sub> LR	Until birth of baby
Clindamycin	Group B Strep	900 mg every 8	IV in $\geq 100$ ml	Until birth of

Phosphate	Prophylaxis	hours	NS or LR	baby
Lactated Ringers (LR)	To administer group B Strep Prophylaxis		Intravenous catheter	
5% Dextrose in Lactated Ringer's solution (D5LR)	To administer group B Strep Prophylaxis		Intravenous catheter	
0.9% Sodium Chloride (NS)	To administer group B Strep Prophylaxis		Intravenous catheter	
Oxygen	Maternal/Fetal Distress, or Neonatal Resuscitation	10-12 L/min 10 L/min	Mask or bag and mask	Until stabilization is achieved or transfer to a hospital is complete
0.5% Erythromycin Ophthalmic Ointment	Prophylaxis of Neonatal Ophthalmia	1 cm ribbon in each eye	Topical	1 dose
Rh(D) Immune Globulin	Prevention of RH(D) sensitization in Rh(D) negative	300 mcg	Intramuscularly	Single dose at any gestation for Rh(D) negative, antibody

**Comment [AM10]:** Style and form To be consistent, it appears this should not be capitalized as not a proper noun

**Comment [AM11]:** Style and form: This is inconsistent with capitalization with Rh(D) below and in the first and last columns of this row.

	women			<p>negative women within 72 hours of spontaneous bleeding or abdominal trauma.</p> <p>Single dose at 26-28 weeks gestation for Rh(D) negative, antibody negative women.</p> <p>Single dose for Rh(D) negative, antibody negative women within 72 hours of delivery of Rh(D) positive infant, or infant with unknown blood type.</p>
<u>Epinephrine HCL</u>	<u>Post-exposure</u>	<u>0.3 to 0.5 in a</u>	<u>Intramuscular</u>	<u>Seek medical</u>

**Comment [AM12]:** Legality Epinephrine does not seem to fall under the list authorized by statute in subdivision 36-9C-13(7), which is the law implemented statute for the section that the appendix is tied to

**Comment [AM13]:** Clarity: Does this need a unit of measurement?



	<u>treatment of severe allergic reaction to approved medication</u>	<u>concentration of 1:1000</u>	<u>injection into anterolateral aspect of the thigh or via metered dose auto-injector</u>	<u>attention immediately after administration of first injection. Can be given every 5-15 minutes as needed for 3 to 4 doses.</u>
<u>Tranexamic Acid (TXA)</u> <u>To be used when initial anti-hemorrhagic therapies fail and with notification of local medical support</u>	<u>Control of Postpartum Hemorrhage</u>	<u>100mg/ml (1 g)</u>	<u>IV at 1 ml per minute</u>	<u>2nd dose if bleeding continues past 30 minutes or restarts with 24 hours.</u>
<u>IV Fluids</u> • <u>Lactate Ringers (LR)</u> • <u>.45% Saline</u> • <u>.9% Normal Saline</u>	<u>To treat postpartum maternal hemorrhage</u>	<u>Infuse 1 liter in wide-open rate</u>	<u>IV line with 16-18 gauge needle</u>	<u>After first liter, a second liter may be titrated to client's condition.</u>

**Comment [AM15]:** Style and form: Should not be capitalized. Would also note that there is inconsistency between the language of this and other references to postpartum hemorrhage within the "Indication" column. See rows 2-4 and below.

**Comment [AM14]:** Clarity: Is this more appropriate in the second column?

**Comment [AM16]:** Clarity: Suggested addition as subdivision 36-9C-13(7) only provides for "[p]ostpartum antihemorrhagic medication in an emergency situation".